

COMMISSIONER'S DIRECTIVE #30

(Replaces Information Bulletin #1FB dated December 2002)

July 2005

DISCLAIMER: Commissioner's Directives are intended to provide non-technical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Local Food and Beverage Taxes

REFERENCE: IC 6-9-12; IC 6-9-20; IC 6-9-21; IC 6-9-23; IC 6-9-24; IC 6-9-25; IC 6-9-26; IC 6-9-27; IC 6-9-33; IC 6-9-35; IC 6-9-36; and IC 6-9-38

INTRODUCTION

This directive is directed to retail merchants responsible for collecting the various county and municipal food and beverage taxes. The purpose of this directive is to assist retail merchants in the proper application of the food and beverage tax. In counties or municipalities that adopt a food and beverage tax, the rate is one percent (1%) of the gross retail income received from taxable food and beverage transactions. In some instances where **both a county and municipality within the county** have adopted the food and beverage tax, the total tax rate for a taxable transaction inside the municipality is two percent (2%).

I. LOCATION OF TRANSACTION

The food and beverage tax applies only to transactions that take place in a county or municipality that adopts the tax. A retail merchant that caters in counties that have not adopted the tax will not collect the tax on transactions in those counties.

II. TRANSACTIONS SUBJECT TO TAX

The food and beverage tax applies to any transaction in which food or beverage is furnished, prepared, or served by a retail merchant for consumption at a location or on equipment provided by the retail merchant in a county or municipality that adopts the tax.

For purposes of the food and beverage tax, consumption at a location or on equipment provided by the retail merchant includes food or beverage which is served by a retail merchant off the retail merchant's premises. This includes food sold and served by a retail merchant that is performing catering activities.

The transaction is taxable if the food is sold in a heated state or heated by the retail merchant. This includes food sold at a deli counter in a grocery store that is cooked or heated on the premises of the retail merchant.

Food or beverages sold by a retail merchant where the seller provides eating utensils including plates, knives, forks, spoons, glasses, cups, napkins, or straws results in a taxable transaction.

Food sold by a retail merchant where two or more food ingredients are mixed or combined by the retail merchant for sale as a single item results in a taxable transaction. This does not include food that is only cut, repackaged, or pasteurized by the seller and eggs, fish, meat, and poultry requiring cooking by the consumer.

III. EXEMPT TRANSACTIONS

The food and beverage tax does not apply to the sales of food and beverages if the transaction is exempt from the sales tax.

IV. COLLECTION AND REMITTANCE OF THE TAX

The food and beverage tax is imposed, paid and collected in the same manner as the sales tax. The filing of the return and the remittance of the tax collected is due thirty days after the end of the month in which the transaction occurs. The return for the food and beverage tax is a separate return from the sales and use tax return. A retailer that is required to collect and remit the tax may file a consolidated food and beverage tax return if the retailer operates multiple locations in the same county. A separate return is required to be filed by the retailer if the retailer has locations in different adopting counties.

The retailer is required to file a separate return if the retail establishment is located in a municipality inside a county where both units of government have adopted a food and beverage tax.

With the exception of Johnson County all tax returns and remittances for the food and beverage tax are required to be filed with the Indiana Department of Revenue. Johnson County has passed an ordinance to have the tax remitted to the county treasurer.

V. UNITS IMPOSING THE FOOD AND BEVERAGE TAX

Unit of Government	Rate	Effective Date
Marion County	2%	July 1981 July 2005 (Rate Increase)
Vanderburgh County	1%	August 1985
Delaware County	1%	August 1986
Allen County	1%	July 1986
Nashville (Brown County)	1%	July 1987
Henry County	1%	October 1987
Madison County	1%	February 1989
Mooresville (Morgan County)	1%	August 1990
Shipshewana (LaGrange County)	1%	July 1990
Plainfield (Hendricks County)	2%	August 1995
Brownsburg (Hendricks County)	2%	August 1995
Avon (Hendricks County)	2%	July 2005
Martinsville (Morgan County)	1%	July 2005
Boone County	1%	August 2005
Johnson County	1%	August 2005 Collected by county treasurer
Hamilton County	1%	August 2005
Carmel (Hamilton County)	2%	August 2005
Noblesville (Hamilton County)	2%	August 2005
Hancock County	1%	August 2005
Hendricks County	1%	August 2005
Shelby County	1%	August 2005

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Fishers
Greenfield
Lebanon
Westfield
Zionsville
Lake County
Porter County
Wayne County
Cities and Towns within Wayne County

A handwritten signature in black ink, reading "John Eckart", written over a horizontal line.

John Eckart
Commissioner